

USPTO Customer No. 25280

Case No. 5257A

REMARKS

## 35 USC Section 112, First Paragraph Rejections:

Claims 11-20 were rejected under 35 U.S.C. § 112, first paragraph, as based upon a disclosure which is non-enabling. The Examiner submits that the definitions of certain variables, critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. More specifically, the Examiner believes the structure of formula A in claims 1 and 11 lack a definition of variables  $a_1$ ,  $a_2$ ,  $a_3$ ,  $a_4$ ,  $a_5$ ,  $b_1$ ,  $b_2$ ,  $b_3$ ,  $b_4$ , and  $b_5$ .

Applicants respectfully believe that the variables are adequately defined in formula A. Applicants' reasoning stems from general knowledge of mathematical equations (e.g. those used in statistics, pre-calculus, calculus) wherein "i" is a variable and is the short hand representation of a subscript integer. It is not a definite value. However, formula A indeed further defines the subscript integers for  $a_i$  as 1, 2, 3, 4, and 5. These subscript integers are represented as  $a_1$ ,  $a_2$ ,  $a_3$ ,  $a_4$ , and  $a_5$ . Similarly, the subscript integers for  $b_i$  in formula A are also 1, 2, 3, 4, and 5 and are represented as  $b_1$ ,  $b_2$ ,  $b_3$ ,  $b_4$ , and  $b_5$ . The same is also true for the relationship between  $s_i$  and  $s_1 - s_5$ . Accordingly, Applicants respectfully submit that the definitions of variables  $a_1$ - $a_5$  and  $b_1$ - $b_5$  are adequately defined in formula A and respectfully requests that this non-enabling rejection be withdrawn.

## 35 USC Section 112, Second Paragraph Rejections:

Claims 1-20 were rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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Applicants regard as their invention. The Examiner submits (1) that the definition of variables  $a_1$ - $a_5$  and  $b_1$ - $b_5$  are missing from Formula A; (2) that on page 18, definitions are given for  $a_i$  and  $s_i$ , which are not variables in Formula A, but notes that those variables are in Formula B; and (3) that Applicants have not told why there is a variable  $s_i$  defined for Formula A and Formula B.

With regard to items (1) and (2), Applicants respectfully believe that the variables  $a_1$ - $a_5$  and  $b_1$ - $b_5$  are adequately defined in formulas A and B and relies on the discussion previously presented for further explanation. Applicants respectfully believe that the previously presented discussion also provides additional clarification as to the legitimate link between  $a_i$  and  $a_1$ - $a_5$  and between  $s_i$  and  $s_1$ - $s_5$ . With regard to item (3), variable  $s_i$  is provided to represent  $s_1$  -  $s_5$  in the same way that  $a_i$  and  $b_i$  are provided to represent  $a_1$  -  $a_5$  and  $b_1$  -  $b_5$ , respectively. Thus, Applicants respectfully submit that this clarification concerning formulas A and B is sufficient to remove the indefiniteness rejection and respectfully requests that the rejection be withdrawn.

#### 35 USC Section 102(e) Rejections:

Claims 11-12, 14-17, 19 and 20 were under 35 U.S.C. § 102(e) as being anticipated by Hart et al. (US Patent No. 6,524,494). The Examiner submits that Hart discloses a process of dewrinkling and providing rewrinkling resistance to a fabric by providing a composition comprising ethoxylated castor oil as claimed in claim 15. Table 2 (col. 7, lines 19-37) discloses compositions comprising CREMOPHOR H60 and CREMOPHOR H40, both of which are ethoxylated castor oils.

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Applicants have amended claim 14 to eliminate "alkoxylated fatty acid esters" from the claim. Page 11 of the specification states that ethoxylated esterified castor oil is part of the class of chemicals known as alkoxylated fatty acid esters. Applicants have also amended claim 14 to include alkoxylated stearic acid; the support for such amendment is found on page 11 of the specification.

Furthermore, Applicants have cancelled claims 15 and 20 to eliminate ethoxylated castor oil. Thus, Applicants respectfully submit that the rejection of claims 11-12, 14-17, 19 and 20 has been overcome.

35 USC Section 103(a) Rejections:

Claims 11, 12, 14, 16, 17 and 19 were under 35 U.S.C. § 103(a) as being unpatentable over WO 99/55948. The Examiner contends that wrinkle reducing compositions are provided in the reference which comprise polyethylene-polypropylene block polymers which fall within the scope of the claimed subject matter. The Examiner refers to Applicant's list of preferred lubricant/plasticizer components on page 12 of the specification. Three of them are Pluronic surfactants. Furthermore, the Examiner notes that on page 15 of the reference, the Pluronic surfactants are listed from lines 8-9 as optional additives in patentee's wrinkle reducing compositions. While patentee has no working examples comprising Pluronic surfactant, the Examiner contends that it would have been obvious to the skilled artisan to use the Pluronic surfactants in the compositions in the working examples because patentee teaches that said surfactants are equivalent to the wetting agents used in the working examples. Additionally, the Examiner states that with regard to the limitation of HLB, the Office is not equipped to evaluate such a property, so since Applicant is using the

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same ingredient as claimed, it is assumed to have the same physical properties since a compound cannot be separated from its properties.

Applicants respectfully disagree with such a rejection and contend that a *prima facie* obviousness showing has not been established and that the Examiner has impermissibly invoked hindsight reconstruction to reject the claims by using the Applicants teaching as a blueprint to hunt through the prior art for the claimed elements. In particular, the presence of cationic surfactants, silicone surfactants, and other materials have been listed as specifically undesirable components within the compositions of Applicants' claimed methods (see page 4, lines 10-23). While these undesirable components are taught within the cited prior art reference, the teaching lacks any specific direction from this single reference to one of ordinary skill within this art to select, out of the vast array of fiber lubricants (including such deleterious components), the same exact components required for use in Applicants' method claims.

Furthermore, case law has held that this approach of "looking for a needle in a haystack" does not establish *prima facie* obviousness. See *In re Clinton*, 527 F.2d 1226, 1228, 188 USPQ 365,367 (CCPA 1976). Hence, it is Applicants opinion that this reference fails to provide a proper obviousness basis of rejection over the currently written claims since the Examiner is relying upon this reference's laundry list of potential components without specifying the particular desire or need to select the same fiber lubricant/plasticizer components as claimed by Applicants. Thus, Applicants' respectfully request reconsideration and withdrawal of the rejection of claims 11, 12, 14, 16, 17 and 19.

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Claims 11-14 and 16-19 were under 35 U.S.C. § 103(a) as being unpatentable over Morales (US Patent No. 6,102,973). The Examiner submits that Morales discloses a method of producing wash and wear properties in which he incorporates a high density polyethylene in an aqueous emulsion with cationic emulsifiers (C1) or with nonionic emulsifiers (C2), as well as a wetting agent (A) which is a linear alcohol ethoxylate (col. 2, lines 66-67 and col. 3, lines 5-6). The Examiner further submits that the patent differs from the claimed subject matter since the patentee does not state that the composition "provides rewrinkling resistance," thus, the Examiner contends that it would have been obvious to one skilled in the art that when a garment has wash and wear properties, it resists wrinkling and does not need to be ironed after laundering. Accordingly, the Examiner believes Morales provides garments which will not wrinkle by applying thereto a composition comprising the ingredients as claimed.

Applicants respectfully disagree with such a rejection and contend that a *prima facie* obviousness showing has not been established, since there is no reasonable expectation of success in making the Examiner's proposed modification to the Morales reference. More specifically, Morales's method teaches *immersing* a garment in a mixture of water and a multi-component chemical composition (such as in a washing machine) in order to create a garment having durable press characteristics (col. 2, lines 63-65 and col. 3, lines 19-27). In contrast, Applicants' method teaches and claims merely *spray-contacting* the surface of the target substrate with a dewrinkling chemical composition. The Examiner implies that by modifying the immersion method of Morales to create Applicants' spray-contacting method, the same results would be obtained. Applicants' respectfully contend that there is no reasonable expectation of success that Applicants' method of lightly spraying the substrate with the chemical composition will produce a substrate having the same characteristics as the

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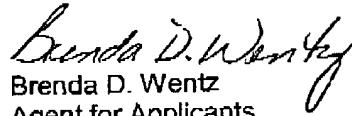
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Morales garment, which has been completely and entirely immersed in the water and chemical composition mixture. Thus, Applicants' respectfully request reconsideration and withdrawal of the rejection of claims 11-14 and 16-19.

In view of the above amendments and remarks, reconsideration of pending claims 11-14 and 16-19 is earnestly requested.

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Respectfully submitted,

  
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